

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re ADAM P., a Person Coming Under the  
Juvenile Court Law.

KERN COUNTY DEPARTMENT OF HUMAN  
SERVICES,

Plaintiff and Respondent,

v.

GINA A.,

Defendant and Respondent,

ADAM P.,

Appellant.

F045170

(Super. Ct. No. JD098174-00)

**OPINION**

APPEAL from a judgment of the Superior Court of Kern County. Richard J. Oberholzer, Judge.

S. Lynne Klein, under appointment by the Court of Appeal, for Appellant.

B. C. Barmann, Sr., County Counsel, and Jennifer L. Thurston, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for Defendant and Respondent.

**-ooOoo-**

Adam P. appeals from the order terminating reunification services for his mother, Gina A., and establishing a plan of long-term foster care. We will affirm the order.

### **PROCEDURAL AND FACTUAL SUMMARY**

Eight-year-old Adam and his siblings were detained on September 9, 2002, when police officers found him in a filthy, dilapidated residence on Lexington Avenue with five adults, including his mother, Gina, who was under the influence of methamphetamine, marijuana, and alcohol. The toilets in the home were filled with human excrement that was seeping onto the floor; the door to one bathroom fell to the floor as an officer entered the room; a sink was covered in vomit; methamphetamine, drug paraphernalia and a pen knife were on the floor of one bedroom, along with toys; there was no edible food; trash was strewn throughout the entire exterior of the home; insects infested the refrigerator and kitchen; and the backyard spa was filled with garbage. Gina was placed under arrest and charged with willful cruelty to a child and being under the influence of controlled substances.

Referrals for general neglect in 1999 and again in August 2002 were substantiated. When the referral was made and substantiated in September 2002, Welfare and Institutions Code section 300<sup>1</sup> petitions were filed on behalf of Adam and his siblings. The petition alleged that Adam fell within the provisions of section 300, subdivisions (b) and (g).

Gina denied that she was living at the Lexington Avenue address, despite the fact that social workers had located her there three weeks earlier and had instructed her to find a new residence. She admitted that she used methamphetamine approximately two to three times per week and had done so for at least six years. Gina's criminal record

---

<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

included a 1999 conviction for sexual intercourse with a minor. On September 24, 2002, she pled no contest to a felony charge of willful cruelty to a child.

At the jurisdictional hearing, Gina submitted on the basis of the social study and the juvenile court adjudged Adam to be a dependent of the court pursuant to section 300, subdivisions (b) and (g). Reunification services were ordered for Gina. Gina was to complete parenting and substance abuse treatment classes, abstain from the use of controlled substances, submit to random monthly drug tests, and maintain a clean and safe home environment for the children.

Gina was incarcerated at the time of the detention hearing and remained incarcerated until April 2003. During this time, Adam was transported to the correctional facility for regular visits with Gina. Gina completed parent training courses while incarcerated.

Upon her release, Gina entered substance abuse counseling and tested negative for controlled substances. She failed, however, to secure a clean and safe home environment. During supervised visitation, the social worker noted that Gina exhibited poor parenting skills when interacting with her children and the children were out of control in her presence.

After 12 months of reunification services, the social study noted that although Gina had completed parenting classes, she had failed to demonstrate appropriate parenting skills during visitation. In addition, Gina had not secured a stable home for herself or the children. The social worker recommended an additional six months of reunification services.

Prior to the 12-month review hearing, the social worker spoke with Gina and notified her that she needed to obtain suitable housing for the children to return home. Gina's response was that she was "not ready" for the children to come home.

At the section 366.22 hearing, social services notified the juvenile court, through an offer of proof, that Gina had not completed substance abuse counseling and had been

dropped from the program for failure to attend. Gina argued that her failure to complete substance abuse counseling should not prevent return of the children, as she had continuously tested negative for controlled substances. She also asserted the children should be returned to her and she would take them to a homeless shelter for lack of any suitable alternative housing.

Social services argued that the same factors that caused an extension of reunification services from 12 to 18 months still were present: (1) failure to obtain suitable housing, and (2) failure to complete substance abuse treatment.

The juvenile court found that Gina had made minimal progress toward completion of the plan and ordered reunification services terminated. A permanent plan of long-term foster care was adopted.

## **DISCUSSION**

Adam contends the juvenile court erred in failing to continue the section 366.22 hearing when social services presented additional evidence at that hearing. He also asserts that there was insufficient evidence of detriment to support the juvenile court's finding.

### **I. Reunification Services**

Adam was detained on September 9, 2002. The juvenile court ordered that reunification services be provided to Gina. Pursuant to statute, the juvenile court could not extend reunification services beyond 18 months from September 9, 2002, unless there was a finding that reasonable services had not been provided. (*In re Zacharia D.* (1993) 6 Cal.4th 435, 446; § 366.21, subd. (g)(1).) There was never an allegation by any party that reasonable services had not been provided. Further, as the respondent points out, *Adam never requested a continuance of the section 366.22 hearing.*

Regardless of whether the juvenile court could have continued the section 366.22 hearing, the new evidence presented at the section 366.22 hearing had no impact on the recommendation. The social study prepared for that hearing recommended a termination

of reunification services and Adam's placement in long-term foster care because Gina had failed to secure and maintain a safe and stable home to which Adam could return. There was no evidence that contradicted this conclusion.

Adam's claims of due process violations for failing to continue the hearing, and the resulting prejudice, obviously fail.

## **II. Detriment Finding**

At review hearings, "it is statutorily presumed the child will be returned to parental custody unless the juvenile court finds by a preponderance of the evidence that returning the minor will create a substantial risk of detriment to the well-being of the minor." (*In re James Q.* (2000) 81 Cal.App.4th 255, 262.) Here, the juvenile court made a finding of detriment

On appeal, this court does not reweigh the evidence but determines only if there is sufficient evidence to support the juvenile court's order. (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 329.) We review the record in the light most favorable to the juvenile court's order. (*Ibid.*) In reviewing the record, we resolve all conflicts in favor of the respondent, and we must indulge in all reasonable inferences that support the finding. (*In re Joshua H.* (1993) 13 Cal.App.4th 1718, 1728.)

Although Adam states that the reunification plan did not specifically state that if Gina were to live with her husband, Art, the home would not be considered appropriate for Adam's return, this information was communicated to Gina. The social worker did inform Gina that she needed to secure other housing arrangements in order to effect a return of Adam to her care. Six months later, Gina still had made no effort to obtain suitable housing.

Before the incident that led to the dependency petition, social services twice had investigated Gina and found Adam to be living in an inappropriate home. At the time the dependency petition was filed, Gina, her husband, and Adam were living in an unsafe and unsanitary home environment. Gina was told at the 12-month review hearing that she

needed to secure proper housing in order to have Adam returned to her. The social worker provided Gina with a list of referrals to low-income housing. Gina failed to follow through on the referrals. The juvenile court noted, “we’re not going to hold ... her hand and take her someplace and get her housing. She’s got to do something, too.”

Considering the two prior substantiated referrals and the condition of the home at the time Adam was detained, providing an adequate home needed to be demonstrated by more than simply testing negative for controlled substances. Gina’s solution that Adam be returned to her and that she seek housing at a homeless shelter is not an adequate response to the requirement that she provide a stable, secure home.

There was sufficient evidence to support the juvenile court’s finding of detriment if Adam were returned to Gina at the time of the section 366.22 hearing.

#### **DISPOSITION**

The order is affirmed.

---

CORNELL, J.

WE CONCUR:

---

VARTABEDIAN, Acting P.J.

---

LEVY, J.